

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
BRYSON CITY DIVISION
2:11 cr 22-11**

UNITED STATES OF AMERICA,)	
)	
Vs.)	ORDER
)	
LARRY MICHAEL WATKINS,)	
)	
Defendant.)	
_____)	

THIS MATTER coming on to be heard before the undersigned, pursuant to a motion filed by counsel for Defendant entitled “Motion to Reconsider Bond/Detention” (#102). At the call of this matter on for hearing it appeared that Defendant was present and represented by Dennis Maxwell, attorney in the office of Jason R. Hayes, attorney for Defendant. The government was present through Assistant United States Attorney David Thorneloe. From the evidence presented and from the arguments of counsel, the undersigned makes the following findings.

Findings. The undersigned held a detention hearing regarding the detention of Defendant on August 15, 2011. After hearing evidence, the undersigned entered an Order detaining Defendant. The detention order has been filed in this matter on August 15, 2011 with an addendum filed on August 23, 2011. (#49 & 49-1)

Defendant did not call any witness to present testimony in regard to defendant’s motion to reconsider. Mr. Maxwell proffered to the Court that Defendant has been in

federal custody for more than 30 days and Defendant is married and has family in the area that will insure that he appears in Court.

The government presented the testimony of Dan Guzo, a special agent with the Drug Enforcement Agency. Agent Gusio testified that after the detention hearing was held in regard to the issue of detention of the Defendant on August 15, 2011 he had continued his investigation. Agent Guzo further testified that a co-defendant had testified that Defendant acted as a distributor of methamphetamine for the co-defendant. The testimony described that Defendant was selling between five to six ounces of methamphetamine every other day for over a year. Agent Guzo further testified that the co-defendant had stated that over 1,000 pounds of methamphetamine had been distributed and the retail cost of an ounce of methamphetamine was approximately \$2,000.00.

Discussion. 18 U.S.C. § 3142(f)(2) provides in regard to a detention hearing that:

The hearing may be reopened, before or after a determination by the judicial officer, at any time before trial if the judicial officer finds that information exists that was not known to the movant at the time of the hearing and that has a material bearing on the issue of whether there are conditions of release that would reasonably assure the appearance of such person as required and the safety of any other person and the community.

The evidence presented in this case by Defendant through the proffer does not

show there has been a change of circumstances regarding the detention of Defendant. This Court entered a detailed Order regarding the detention of Defendant. Specifically, the Court considered the fact that Defendant's criminal record showed four previous felony convictions involving controlled substances. The evidence presented by the government, on the other hand, now shows that Defendant was intimately involved in the conspiracy and was selling what was, in this Court's experience, a large amount of methamphetamine and distributing it in the Western District of North Carolina. The undersigned finds that the presumption of detention as provided for under 18 U.S.C. § 3142(e)(3) has not been rebutted and the evidence now shows even more compelling reasons to detain Defendant. As a result, Defendant's motion for reconsideration has been considered and a hearing granted, but the undersigned will order that Defendant continue to be detained pending further proceedings in this matter.

ORDER

IT IS, THEREFORE, ORDERED that the motion entitled "Motion to Reconsider Bond/Detention" (#102) is hereby **ALLOWED** and the undersigned has reconsidered the issue of detention of Defendant and has determined enter an order continuing the detention of Defendant pending further orders of the Court.

Signed: October 5, 2011

Dennis L. Howell

Dennis L. Howell
United States Magistrate Judge

